



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/045,604   | 10/23/2001  | Kevin J. Dowling     | C01104/70087 (JT)   | 3464             |
| 23628  | 7590        | 08/26/2003           | EXAMINER            |                  |
| WOLF GREENFIELD & SACKS, PC<br>FEDERAL RESERVE PLAZA<br>600 ATLANTIC AVENUE<br>BOSTON, MA 02210-2211 |             |                      | A, MINH D           |                  |
|  |             | ART UNIT             | PAPER NUMBER        |                  |
|  |             | 2821                 |                     |                  |

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/045,604             | DOWLING ET AL.      |
|                              | Examiner<br>Minh D A   | Art Unit<br>2821    |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 23 October 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-322 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-322 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***DETAILED ACTION***

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-37, 53-56, 60-64, 65-66, 68-69, 71-92 and 95-129, 143-152, 154-157, 166-213, 229-232, 237-242, 244-246, 248-309 drawn to a method of illuminating environment, classified in class 315, subclass 291.
  - II. Claims 67, 243, drawn to a music trainer, classified in class 709, subclass 219.
  - III. Claims 57-60, 233-236, drawn to an auction electronic system, classified in class 717, subclass 168.
  - IV. Claims 38-52, 70 and 93-94, 130-142, 153, 158-165, 214-228, 247, 310-22 drawn to a video game system, classified in class 463, subclass 4.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II, III, IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, Invention I comprising an illumination source and a computer application for illuminating environment that are not required by Inventions II, III, and IV. Invention I has different mode of operation such as illuminating environment while Inventions II, III and IV have different modes of operations such as generating music, executing an auction and rendering a video game.

3. Inventions II and I, III, IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the music trainer system comprising a music generator and a feedback system that are capable of generating music that Inventions I, III, IV are not capable of. Invention II also has different mode of operation such as generating music and providing feedback to a user through a light system while inventions I, III, IV have different operations such as illuminating environment, executing an auction, rendering a video game.

4. Inventions III and I, II, IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, Invention III comprising a computer code being capable of executing an auction and a control system for controlling the lighting system in response to data obtained from the auction that Inventions I, II, IV are not capable of. Invention III also has different mode of operation such as using computer code for executing an auction while Inventions I, II, IV have different modes of operation such as illuminating environment, generating music and rendering a video game.

5. Inventions IV and I, II, III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, Invention IV comprising a video game console being

capable of rendering or enabling a video game that Inventions I, II, III are not capable of. Invention IV also has a different mode of operation such as network controlling, video processing while Inventions I, II and III have different modes of operation such as illuminating environment, generating music and executing an auction.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (703) 605-4247. The examiner can normally be reached on M-F (7:30 —4:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (703) 308-4856. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.

Application/Control Number: 10/045,604  
Art Unit: 2821

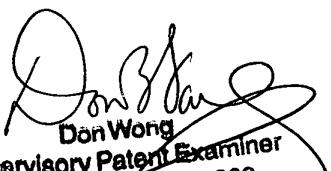
Page 5

Examiner

Minh A

Art unit 2821

08/25/03

  
Don Wong  
Supervisory Patent Examiner  
Technology Center 2800